



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.16004 of 2017

V.Anandhavalli

... Petitioner

vs.

1.The Commissioner,
Municipal Administration,
Chennai.

2.The District Collector,
Madurai District, Madurai.

3.The Commissioner,
Melur Municipality, Madurai District.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in Na.Ka.No.3448/2016/H1, dated 15.06.2016 and quash the same and consequently, to direct the third respondent to consider the petitioner's compassionate appointment.

For Petitioner	: Mr.R.Satish
For R-1 and R2	: Mr.K.S.Selva Ganesh Government Advocate
For R3	: Mr.J.Gunaseelan Muthiah

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the third respondent, dated 15.06.2016 and consequently, to direct the third respondent to consider the petitioner's compassionate appointment.

2.Heard Mr.R.Satish, learned Counsel for the petitioner and Mr.K.S.Selvaganesh, learned Government Advocate for R1 and R2 and Mr.J.Gunaseelan Muthiah, learned Counsel for the third respondent.

3.It is the case of the petitioner that her mother was working as Sweeper in Melur Municipality and her mother was the sole bread winner of the family. It is admitted by the petitioner that her mother died on 31.12.2011, while she was in service. The deceased mother had three daughters and all are married. Though the petitioner was married, it is stated that there was a



misunderstanding between the petitioner and her husband and that they are not living as husband and wife. The petitioner appears to have submitted an application on 06.07.2012, seeking appointment on compassionate ground. It is the case of petitioner that her elder sisters, who are other legal heirs of her mother, have given no objection letter in favour of the petitioner for giving compassionate appointment to the petitioner. However, the petitioner's application for compassionate appointment was rejected vide impugned order, dated 15.06.2016 by the third respondent on the ground that all the three daughters of the petitioner's mother are married and that therefore, the appointment cannot be given on compassionate ground. Challenging the order of rejection, the above Writ Petition is filed.

4.The learned Counsel for the petitioner relied upon the Government Order vide G.O.Ms.No.78, dated 21.04.2017. As per the said Government Order, the application by the married daughter of the deceased Government servant should be submitted within three years and that the application should be considered in terms of the Government Orders and guidelines.

5.A counter affidavit has been filed by the third respondent pointing out that the petitioner is not dependent of her deceased mother. It is further stated that the petitioner's father is still working as Sweeper in Melur Municipality and that the petitioner can be supported financially by her father.

6.The petitioner's application though was rejected on the ground that a married woman is not entitled to get compassionate ground appointment, it is admitted before this Court by the respondents that the petitioner's father is still working as Sweeper in the same Municipality. The petitioner has approached this Court and the respondents under the pretext that her mother alone was the sole bread winner of the family and that there is no one to support her in the family. The said statement cannot be accepted and the Writ Petition is liable to be dismissed on the ground that she has approached this Court with unclean hands.

7.The request of the petitioner for employment on compassionate ground cannot be entertained, unless there are specific rules and regulations that provide for such employment. Having regard to the objects on the basis of which appointments on compassionate ground are given, the request of the petitioner or the similarly placed persons cannot be considered merely, on the basis of any sympathy. As a general rule, an appointment should be made only as per the prescribed recruitment process recommended by the Service Rules. Any appointment *de hors* the rules will pave way for bad weather in establishments like local bodies. This Court cannot direct appointment to the petitioner unless the



petitioner is eligible. The petitioner's father and mother were employed independently as Sweeper in the Melur Municipality. Merely on the basis of averments that the petitioner is a dependent of her mother, she cannot get employment from the Municipality on compassionate ground. Though married daughters are also eligible, she cannot be considered as eligible, unless she proves that her livelihood was dependent on her mother's employment.

8.For the all the reasons stated above, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Commissioner,
Municipal Administration, Chennai.
- 2.The District Collector,
Madurai District, Madurai.

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PS (CO)
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